

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 03-4170

JOSEPH IZELL MOSLEY,

Defendant - Appellant,

versus

UNITED STATES OF AMERICA,

Plaintiff - Appellee.

Appeal from the United States District Court for the District of South Carolina, at Spartanburg. G. Ross Anderson, Jr., District Judge. (CR-02-376)

Submitted: August 23, 2004

Decided: September 8, 2004

Before MICHAEL and MOTZ, Circuit Judges, and HAMILTON, Senior Circuit Judge.

Affirmed by unpublished per curiam opinion.

Christopher J. Moran, LAW OFFICES OF CHRISTOPHER J. MORAN, Columbia, South Carolina, for Appellant. Isaac Louis Johnson, Jr., OFFICE OF THE UNITED STATES ATTORNEY, Greenville, South Carolina, for Appellee.

Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Joseph Izell Mosley appeals his sentences following his guilty plea without a plea agreement to bank robbery by force or violence, in violation of 18 U.S.C. §§ 2113(a) and (d) (2000) (Count One), and knowingly using and carrying a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c)(1)(A) (2000) (Count Two). Mosley's attorney has filed a brief in accordance with Anders v. California, 386 U.S. 738 (1967). Although counsel states there are no meritorious issues for appeal, he challenges Mosley's forty-six-month sentence on Count One and the consecutive sixty-month term of imprisonment on Count Two. Although informed of his right to do so, Mosley did not file a pro se supplemental brief. The Government declined to file a responsive brief. In accordance with Anders, we have considered the brief and examined the entire record for meritorious issues. Finding no error, we affirm.

It is well-settled that a sentence within a properly calculated sentencing guidelines range is not reviewable on appeal. United States v. Jones, 18 F.3d 1145, 1151 (4th Cir. 1994) (holding § 3742(a) precludes a criminal defendant from seeking review of court's sentence anywhere within properly calculated sentencing range); 18 U.S.C. § 3742(a) (2000). Because Mosley's forty-six-month sentence on Count One falls within the properly calculated guidelines range of forty-six to fifty-seven months' imprisonment,

and because his sixty-month consecutive sentence on Count Two is mandated by statute, neither is reviewable on appeal.

In accordance with Anders, we have reviewed the entire record in this case, including the Fed. R. Crim. P. 11 and sentencing transcripts, and have found no meritorious issues for appeal. We therefore affirm Mosley's sentence. This court requires that counsel inform his client, in writing, of his right to petition the Supreme Court of the United States for further review. If the client requests that a petition be filed, but counsel believes that such a petition would be frivolous, counsel may move in this court to withdraw from representation at that time. Counsel's motion must state that a copy thereof was served on Mosley.

We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED